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8 Attorneys for Defendant
ARISTA NETWORKS, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12 CISCO SYSTEMS, INC.,

13 Plaintiff,

14 v.

15 ARISTA NETWORKS, INC.,

16 Defendant.

Case No. 5:14-cv-05344-BLF (PSG)

**DECLARATION OF EDUARDO E.
SANTACANA IN SUPPORT OF CISCO'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL (ECF NO. 116)**

Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: August 1, 2016

1 I, EDUARDO E. SANTACANA, declare:

2 1. I am an attorney licensed to practice law in the State of California and am an
3 associate with the law firm of Keker & Van Nest LLP, located at 633 Battery Street,
4 San Francisco, California 94111, counsel for Defendant Arista Networks, Inc. (“Arista”) in the
5 above-referenced action. Unless otherwise stated, the facts I set forth in this declaration are based
6 on my personal knowledge or knowledge I obtained through my review of corporate records or
7 other investigation. If called to testify as a witness, I could and would testify competently to such
8 facts under oath.

9 2. I submit this declaration in support of the Administrative Motion to File Under
10 Seal Confidential Information in Opposition to Arista’s Motion to Amend Scheduling Order or,
11 Alternatively, to Stay Patent Claims Pending *Inter Partes* Review (“Motion to Seal”) filed by
12 Plaintiff Cisco Systems, Inc. (“Cisco”) (ECF No. 116). I have reviewed Cisco’s Motion to Seal
13 and the Civil Local Rules of this Court governing such motions, and submit this supporting
14 declaration under Civil L.R. 79-5(e).

15 3. Cisco’s Motion to Seal seeks to file under seal information submitted in Cisco’s
16 ***Amended*** Opposition to Arista’s Motion to Amend Scheduling Order or, Alternatively, to Stay
17 Patent Claims Pending *Inter Partes* Review (ECF No. 93 (Motion); 117 (Amended Opposition)),
18 which is a non-dispositive motion. Because Cisco’s Motion to Seal relates to a non-dispositive
19 motion, the information that the parties request to file under seal are not subject to a strong
20 presumption of public access. *See Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180
21 (9th Cir. 2006). Rather, the “good cause” standard of Rule 26(c) of the Federal Rules of Civil
22 Procedure applies to the material that Cisco’s Motion to Seal seeks to withhold from public view.
23 *Id.* at 1179. Civil Local Rule 79-5 further requires that a party seeking to seal information and
24 documents “establish[] that the document, or portions thereof, are privileged, protectable as a
25 trade secret or otherwise entitled to protection under the law.” Civil L.R. 79-5(b). The sealing
26 request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* I submit
27 this declaration to provide additional facts in support of Cisco’s Motion to Seal, and to provide
28 facts establishing that the “good cause” standard has been met.

4. Cisco submitted the Declaration of Mark Tung in support of its Motion to Seal (“Tung Declaration”) (ECF No. 116-1) and a highlighted copy of Cisco’s amended opposition brief (per Civil L.R. 79-5(d)(1)(D)) indicating the specific text within the brief that should be sealed (ECF No. 116-3). Paragraph 4 of the Tung Declaration lists, in table format, the material that Cisco seeks to file under seal. I address those materials listed in the Tung Declaration below. Per the instructions provided on the Northern District of California’s website, this declaration is drafted so that it does not contain confidential information and does not need to be filed under seal. *See* <http://www.cand.uscourts.gov/ecf/underseal>.

5. There is good cause to seal the highlighted portions of the annotated copy of Cisco’s amended opposition brief (ECF No. 116-3). The highlighted portions of Cisco’s amended opposition brief are narrowly tailored to prevent disclosure of the specific confidential research, development, and customer-feedback information revealed in Exhibits 6 and 8 to the Tung Declaration previously filed in support of Cisco’s original opposition brief (ECF Nos. 113-5, 113-7). I provide a detailed explanation of why Exhibits 6 and 8 to the Tung Declaration should be sealed in a separate declaration filed concurrently with this declaration, and I incorporate that explanation here.¹

Executed November 23, 2015, at San Francisco, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Eduardo E. Santacana
EDUARDO E. SANTACANA

¹ I submit two declarations because Cisco filed two sealing motions—one in connection with its *original* opposition brief and associated exhibits, and one in connection with its *amended* opposition brief (which cites to the exhibits submitted with the original opposition brief).